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Paper No. 6

YVES BARBARIE
29 BD DE MONTMORENCY
PARIS 75016
FRANCE

COPY MAILED

MAR 28 2003

OFFICE OF PETITIONS

In re Application of :
Yves Barbarie :
Application No. 09/507,700 : ON PETITION
Filed: 22 February, 2000 :
For: AEROSTAT FOR TRANSPORTING :
EQUIPMENT AND PASSENGERS :

This letter is in response to the communication filed on 17 September and supplemented on 5 December, 2002, styled as a petition under 37 CFR 1.137(b) to revive the above-identified application. In the absence of the proper petition fee, this communication is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.¹

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 18 June, 2000, for failure to file a timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 17 April, 2000, which set a two (2) month shortened period for reply. On 16 June, 2000, petitioner attempted to file an extension of time in accordance with 37 CFR 1.136(a), but no fee was received with that request. Notice of Abandonment was mailed on 7 August, 2002.

¹In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

On 22 October, 2002, the USPTO received \$629.00. A total of \$410.00 for the statutory basic filing fee and surcharge for its late filing is due, and \$650.00 is due for the petition fee under 37 CFR 1.137(b). Therefore, a deficiency of \$431.00 is due for consideration of a petition under 37 CFR 1.137(b).

In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment.² The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.³ As petitioner has not alleged circumstances which would warrant the withdrawal of the holding of abandonment, the petition will be dismissed.

As the papers filed on 17 September and 5 December, 2002, do not contain a proper statement of unintentional delay, it is recommended that petitioner use the attached USPTO form when filing a renewed petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 Box DAC
 Washington, DC 20231

OR (after 1 May, 2003)⁴

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA

²See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

³MPEP 711.03(c); see 35 U.S.C. 41(a)(7).

⁴Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

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Telephone inquiries should be directed to the undersigned at
(703) 308-6918.

A handwritten signature in cursive script, appearing to read "D. Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
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